

Express Mail/Label No.: EV313923877US

Date of Deposit: July 13, 2004



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Shimkets et al.  
SERIAL NUMBER: 09/662,783 EXAMINER: Dong Jiang  
FILING DATE: September 12, 2000 ART UNIT: 1648  
FOR: GROWTH FACTOR POLYPEPTIDES AND NUCLEIC ACIDS ENCODING SAME

DECLARATION OF CATHERINE E. BURGESS UNDER 37 C.F.R. § 1.132

I, CATHERINE E. BURGESS, declare and state that:

1. I received a Bachelor of Science degree in biology from Old Dominion University in Norfolk, Virginia in 1987, and a Ph. D. degree in Biomedical Sciences from Eastern Virginia Medical School, Department of Biochemistry in 1994;
2. I am currently employed at Curagen Corporation in New Haven, Connecticut, as a Senior Project Manager, Exploratory Development, the assignee of this patent application;
3. I am the holder of one (1) United States Letters Patent, and a named co-inventor on more than fifty (50) pending United States patent applications; and an author of thirteen (13) scientific papers which appear in Journals such as the *BMC Neurology*, *Cytogenet. Genome Res.*, *Nat. Cell Biol.*, *Cancer Res.*, *Int. J. Mol. Med.*, *Am. J. Hum. Genet.*; and *Biochim. Biophys. Acta*; and four (4) book chapters in, for example, Methods in Molecular Genetics (CRC Press), and Laboratory Protocols for Mutation Detection (Oxford Press);
4. I have read and am familiar with the specification and claims of United States Patent Application USSN. 09/662,783 entitled "Growth Factor Polypeptides and Nucleic Acids Encoding Same", including the January 13<sup>th</sup> 2004 Office Action in which pending Claims 1, 2, 40 and 66-88 were deemed to be unpatentable under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,495,668 issued to Gilbert et al. ("Gilbert");
5. I have been asked by Patent Counsel to review the specification and claims in USSN 09/662,783, the January 13<sup>th</sup> 2004 Office Action, and the Gilbert reference, and have done so;
6. I have concluded after my review that there are a number of distinctions that can be made between the teaching of the Gilbert citation and the claimed subject matter of USSN 09/662,783 which, in my opinion and belief, do not render the claimed subject matter of USSN 09/662,783 anticipated by the Gilbert teaching;

Considered.

DJ  
8/26/04